MR. P CHIDAMBARAM PILLAI (*Commerce and Industry, South*): I move that the figure '1111' substituted for the figure '1110' after the word 'Regulation' in clause 1, sub-clause (1), be accepted.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) I second it.

The question that the amendment be accepted was put and carried.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): I move that the words 'son's widow', added after the word 'A' in clause 2 be accepted.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I second it.

The question that the amendment be accepted was put and carrried.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): I move that the words 'son's widow' inserted after the words 'a' and "sons's" in clause 3, sub-clause (b) be accepted.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I second it.

The question that the amendment be accepted was put and carried.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): I move that in clause 3, sub-clause (c), the fullstop after the end be omitted, a comma be inserted and the word 'or' be added after the comma and the following added as sub-clause (d): –

"divest any estate already vested in an heir according to the law for the time being in force."

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I second it.

The question that the amendment be accepted was put and carried.

THE TRAVACORE SPECIAL MARRIAGE AND SUCCESSION BILL.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I beg to move that the Travancore Special Marriage and Succession Bill be read in Assembly.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I second it.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I have at some length, in the Statement of Objects and Reasons, explained the principles of the Bill. At this stage I may briefly state the principles contained in the Bill for the acceptance of this House. Sir, as early as 1868, the great lawyer and jurist, Sir Henry Maine, addressed the Government of India on the necessity for a Civil Marriage Bill and he actually introduced a Bill in the Legislature at that time. But before the Bill could be taken up for consideration, Sir Henry Maine retired and the work was taken up by no less famous a jourist than Sir James Stephen. He collected evidence on that matter and has recorded his opinion which would be a great authority for the juristic justification of a measure of this kind. I shall just read the conclusions that he came to after elaborate investigation in this matter. This is what he said: –

"The cases which I have quoted appear to me to establish in the broadest way that on the most general principles it is just, equitable, and according to good

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> conscience that all men should have a right to marry although the law to which they are subject may prescribe the manner in which their right is to be exercised. In India, as we all agree, there is no fundamental common law other than the law of justice, equity and good conscience upon this subject. If a man is not a Hindu, nor a Muhammadan, nor a Parsee, nor a Christian, nor a Jain, no form is prescribed for him by law. Does it follow that he cannot marry at all? Certainly not. What follows is that his right must be determined by the general maxim that contracts for a lawful object and made on good consideration are valid and must be performed, and I have yet to learn that marriage is in a general sense, unlawful or immoral or a promise to perform conjugal duties by the wife or the husband is not a good consideration for the promise to perform reciprocal duties by the husband or the wife."

So I need not stress very much on the theoretical aspect of the justification of a measure of this kind.

Another point which I wish to stress on the attention of this Assembly and all people who are likely to take objection to this measure is that this measure is purely a permissive one. People who do not want to avail themselves of the facility given them under this measure need not take into account this measure at all. They can very well ignore it. There is not going to be any compulson on them. The fact that it is a permissive measure is a matter of great importance and that should disarm opposition of any reasonable kind. Sir, this Bill tries to provide for people who happen to marry into communities or castes, which are not allowed by the existing law. Even if you prohibit such marriages by the existing custom or rules pertaining to particular communities, they cannot be prevented. They do take place.

The only thing is that you can bastardise the children born of such union. Sir, one of the main objects of my Bill is to legitimatise the children born of such marriages. Those children are not in any way responsible for pushing on their life with the burden of illegitimacy attached to them as a stigma. They must be allowed to get on in this world with as much freedom and self-respect as other children. The children should not be visited with the sins of the parents. This Bill provides mainly for the legitimatising of the issues of such marriages.

Sir, there has been a persistent demand for legislation of this kind, As early as 1872, a Marriage Law was passed accepting the principle of this Bill in British India. Another amendment to that was passed in 1923 broadening its scope. Then again, another Bill was introduced in 1928 which was circulated and after that no action was taken. I mention this only to show that this legislation had been attracting the attention of the best minds in India. In 1911, The Honourable Mr. Bhupendranath Basu brought in a Bill for the validation of marriages. Again, the late lamented Vithalbhai Patel was the sponsor of a Bill of a similar nature though with a limited scope. In the neighbouring State of Cochin, a Bill with the same scope has already been passed and is law.

In Travancore, various social conferences have demanded such a legislation. The recent conference of Kshatriyas, who may be construed as one of the aristocratic communities in Travancore, has made a special demand for this.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In what year?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): In the year of grace, 1936.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Then why did not the Kshatriyas move for this law when the Kshatriya Regulation was enacted, which contains provisions for marriage?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Perhaps the mover of that Bill was not keen on this. Three weeks ago when they met at Shertala, they passed a resolution saying that such a measure is necessary; that is the opinion of the community.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Are not the Kshatriyas allowed to marry outside their own community?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Only the males can marry outside the communities and that from high caste Hindus only. If this Bill is passed, there will be absolute freedom between man and woman. The woman can marry only from castes higher in social order than Kshatriyas *i. e.*, only *anuloma* marriages are allowed.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): May I know whether any other community than the Kshatriyas has demanded this?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): The Nairs and the Ezhavas have asked for similar legislation.

MR. ANTONY GEORGE (*Nominated*): Have the Brahmins asked for this?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): They have not objected to this.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Have the Nambootiries asked for this?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes, they have welcomed such legislation.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): What is the scope of this Bill?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): The scope of this Bill is the same as that passed in Cochin. I think there is much more in common between Cochin and Travancore than between Trvancore and British India.

MR. T. K. ALEXANDER (*Kunnatnad I*): May I know whether the member is aware that a memorial was presented by the Catholic Bishops of Travancore to the Dewan of Travancore protesting against this?

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MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I am not aware. I take the information supplied by the member to be correct.

MR. S. J. NAIR (*Nedumangad*): May I know whether the member is aware that the Catholic Bishops are not in the habit of entering into marital relations?

DEPUTY PRESIDNT: I disallow that question because it is well known to people who have anything like experience of the world that Catholic Bishops are not permitted to marry.

MR. T. K. ALEXANDER (*Kunnatwad I*): May I be permitted to make an explanation? I said that Catholic Bishops submitted a memorial on behalf of their Catholic subjects.

MR K. KUNJUKRISHNA PILLAI (*Quilon I*): Generally they submit memorials on behalf of Catholic subjects. I can understand the significance of a request or protest like that if Catholics are all bound to marry under this legislation. But there is no such thing. Only those people who are not satisfied with the canonical law and want to marry outside is permitted to do so under this Bill. Nobody compels them to go out of it and marry in other communities. But if and when a Catholic goes out of his community and marries, the Bill asks that the man should take responsibility for that and not go scot free.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Is it open to two Catholics to marry according to the proposed Bill?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes, if they so desire.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Will not a marriage outside the Catholic Church lead the Catholic to excommunication?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): When they go out of the prescribed law of the Catholics, they must be prepared to take the consequences of such action.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Will not the children born out of such union be illegitimate?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): That is the evil which this Bill proposes to remedy.

MR. N. E. VARUGHESE (*Tiruvalla I*): May I know whether the member is prepared to exclude Christians from the operation of this law?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Even if the member is prepared to exclude them, will the House exclude them?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): The House must decide that.

I need not at this stage go into the various clauses of the Bill, because this is not the time for it. The provisions of the Bill are very simple and need no elucidation.

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MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know whether the member knows the views of the Mahomedans on this question?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I know there are Mahomedans who have contracted marriages out of their community. I find that in India among the upper classes, it is the Mahomedans who very often go out of their community and marry from other communities.

DEPUTY PRESIDENT: In that case, will the wives become Mahomedans?

MR. K. MAHOMED (*Alwaye*): There is a provision in Islamic Law enabling Muslims to marry non-Muslims.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I understand that *Kitabis* are allowed to be married by Muslims. But if they marry a *Kaffir* then the Islamic Law will not apply. I think as a matter of fact it is the Mahomedan who should be the last to object to a change like this. According to them marriage is a contract. And that is the view which is accepted by modern socities.

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): May I know the number of Muslims who have gone out of the community to marry others in Travancore?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): The number is immaterial. It is the children born out of such wedlocks that make this legislation necessary. It creates illegitimacy and the children are without property. When society is advancing, and when individual laws are advancing, the freedom of individuals, the freedom in regard to marriages, will also have to expand to keep pace with the advancing needs of society. The law must recognise that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does not the Mahomedan Law allow marriage between a Mahomedan male and a non-Mahomedan woman?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Then, does the member agree that, so far as the Mahomedan is concerned, this law is unnecessary?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes. But what about Mahomedan women? They are not allowed to marry outside their community. Sir, we are all aware of the communal differences in the State. I feel confident that no other single measure will go to ameliorate that condition and create a possible future when communities will shake off their differences, so much as this Bill. The Bill will help them to shake off their petty differences, created by artificial rules laid down by communities and castes and weld together a homogenous community. Sir, I have often thought what would have been the condition of India if the full-fledged Civil Marriage Bill introduced by Sir Henry Mayne had become law. Would there have been these Hindu-Muslim troubles now? Would there have been a communal problem? I do not think there would have been. And if there is no communal

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problem, what problem have we? Before the British came to India, there was not such a tension between the communities, because of the fact that marital unions took place very liberally, and the different cultures were mingling and would have given birth to a homogenous nation.

Perhaps the normal and actual expansion of the Hindu religion and customs was not possible. That is one of the standing complaints against the rigid rule of the foreign power. They have not been able to understand the spirit of our laws and culture. Facts and circumstances show that the necessary expansion in the rules and laws has not been effected. That is my point. If it is found that in British India, an attempt has been made to relax those rules from 1872, at last, if there is any justification for such a change in British India, it is all the more necessary in a place like Travancore where the people are much more advanced in education, where the people are more liberal in their outlook, where individual right of property is greater, I think a legislation of this kind is even more necessary. If the law does not move as and when the necessity occurs it will lead to a serious and dangerous result.

DEPUTY PRESIDENT: In short, according to you the proposed law will remove caste, and communal or religious barriers?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Perhaps it will not be able to remove all barriers completely. To a very large extent it will be a solvent of the communal problem.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Then will it create one more caste?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): No. I am sure, as our ideas advance, if that caste comes in, that will absorb all other minor castes.

MR. T. K. ALEXANDER (*Kunnatnad I*): Does the member know that our Government attempted in the year 1890 to promulgate a similar legislation in Travancore?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I am not aware.

The Bill has been divided into two parts and I have added in the second part the rules relating to succession as well, because there is no general law of succession in the State. I thought that also is very necessary and have included it. I have elaborately explained the clauses in the Statement of Objects and Reasons. At this stage I think I need not explain the objects and reasons of this Bill any further. I hope the Assembly will support the principles of the Bill. I may say that the Select Committee can go into the various clauses minutely and make the necessary changes, provided these broad principles are accepted. I also think it is not a day too early to have a measure of this kind in Travancore, especially in view of the fact that legislation of a similiar character has become law in the sister State of Cochin. With these words I commend the principle of the Bill for the acceptance of the House.

MR. A. EASWARA PILLAI (*Kalkulam II*): Did the major communities of the State ask for a legislation of the kind now proposed by the member?

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MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Yes, a majority of them.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) In seconding the Bill, I would only echo what the mover said that "the cases establish in the broadest way that on the most general principles it is just, equitable and according to good conscience' that all men should have a right to marry although the law to which they are subject may prescribe the manner in which their right is to be exercised". Such a Bill is highly necessary in view of the changing conditions in Travancore. We should not remain backward in effecting reasonable reforms. Further, a similar measure has become law in the sister State of Cochin.

MR. K. R. ELENKATH (*Kalkulam I*): I also support the general principle of the Bill that is now before us. There are some clauses in the Bill which are not acceptable to me. I am sure, the Select Committee will go into those questions minutely and effect the necessary changes.

Some of the defects that require remedy according to me are as below. The mover has tried to remove restrictions as regards divorce. In cases of divorce, it is true that provision is made for compensation being made. That is determined by conducting an enquiry into the position, means and circumstances of the parties, but without going into the grounds of the dissolution. I do not know why such compensation should be restricted in some cases without reference to the capacities of parties. For example the fixing of a maximum for compensation does not seem to be reasonable. To a millionaire Rs. 5000 may be nothing and I do not know why his wife should not get anything more when it is clear that her husband's means can afford to pay her much more. The other point that I would refer to in this connection is that regarding the age of consent. The Bill says that each party must have obtained the consent of his or her father or guardian to the marriage, if he or she has not completed the age of 18. To me it appears that the age must be raised to 21. To attain the majority, the party need complete only 18 years. But the party must have completed 21 years to give his or her consent for such marriage which is in violation of the existing custom. That is ordinary law. Clause 27 which is intended to protect the rights of persons who marry under this Regulation is the most important clause. There are various points to be gone into in this connection.

With these words, I support the principle of the Bill.

MR. T. K. ALEXANDER (*Kunnatnad I*): I oppose the principle underlying the measure before the House. The mover said that the Bill had been brought before the Assembly on the request of the general public.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) I did not say so.

MR. T. K. ALEXANDER (*Kunnatnad I*): Then I would say that the member stated that some communities have passed resolutions urging to enact such a law. I must say that the major communities, like Muslims and Catholics do not want such a Bill. They have never called for such a legislation.

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MR. K. C. ABRAHAM (*Kottayam II*): Should the introduction of a Bill depend on the opinion of any community?

MR. T. K. ALEXANDER (*Kunnatnad I*): That has been put forward as one of the reasons for bringing in such a Bill. This is a piece of social legislation. The Bill seems to be intended only for such as have no definite personal law in the matter. The Catholics have the canon law as their personal law and no Catholic is exempt from the operation of this law. Marriage is done according to the laws of individuals concerned. Every community has its own laws for marriages and Catholics, the canon law. Hence this Bill is superflous for them.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I know whether there is the possibility of the Catholics disregarding their canonical law?

MR. T. K. ALEXANDER (*Kunnatnad I*): No.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Why is the member so anxious for the renegade?

MR. T. K. ALEXANDER (*Kunnatnad I*): I want to prevent conflicts

MR. K. C. ABRAHAM (*Kottayam II*): May I know what the conflict would be?

MR. T. K. ALEXANDER (*Kunnatnad I*): The present Bill does not recognise marriage according to canonical law. A marriage contracted under the proposed law will be invalid according to the canon law, but will be considered binding by the laws of the State. Consequently a conflict between the action of the civil authority and the church will become inevitable and also it would be harmful to the interest of the Catholics of the State.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Is there no possibility of Catholics living in the fold?

MR. T. K. ALEXANDER (*Kunnatnad I*): Living in the fold is not desirable according to me.

If a Nayar marries a Pulaya, his community does not discard him.

DEPUTY PRESIDENT: Is the member sure of that?

MR. T. K. ALEXANDER (*Kunnatnad I*): If a Catholic marries from a non-Catholic community, he will be excommunicated.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Can a Catholic become a Protestant and then marry? In that case will such a man be excommunicated?

MR. T. K. ALEXANDER (*Kunnatnad I*): Yes.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Is a man who leaves the church of his own accord, permitted to rejoin it?

MR. T. K. ALEXANDER (*Kunnatnad I*): Yes.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Is he excommunicated for becoming a Protestant or for having married?

MR. T. K. ALEXANDER (*Kunnatnad I*): For both

DEPUTY PRESIDENT: I think we need not go far into the region of excommunication.

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MR. T. K ALEXANDER (*Kunnatnad I*): The proposed law will be productive of considerable harm. The provisions relating to marriage and divorce will facilitate the gratifying of passions and lead to processes contrary to the tenets and practices of our religion and community and are bound to disturb the peace and unity of families.

With these few words I oppose the principle of the Bill.

SRIMATI T. NARAYANI AMMA (*Nominated*): I rise to support the principle of the Bill. A law which validates marriages between persons belonging to different castes and communities has become a necessity in Travancore. With the progress of education, there has been a new orientation in the ideas and ideals of the people and a desire to break the fetters of some of the old social laws and social customs which hamper national progress, is desirable among large sections of the people. It is highly necessary, therefore, that the law should keep pace with these social tendencies which are an inevitable result of education and culture. A Bill like the one now before the House cannot therefore be said to be a revolutionary or premature move. After all, as stated in the Objects and Reasons of the Bill, it is only a permissive measure intended for the protection of those who wish to take advantage of it. Any defect noted in the provisions of the Bill can be rectified during the committee stage. With these observations I support the principle of the Bill.

MR. ANTONY GEORGE (*Nominated*): Sir, I oppose the principle of the Bill. The main object of this Bill is stated to be the enlargement of personal freedom. As such it is likely that certain people would find in it some attraction, especially bachelors, both male and female.

This Bill, Sir, is essentially a social measure. This House should study the principle involved in it with the utmost care and caution.

We are now governed by certain customs. In my opinion such customs are absolutely necessary for the permanence and security of society. We should not lightly interfere with such customs. There must be very good reasons for doing so. And the only good reason that I could think of for interfering with such customs is the desire of the people themselves for a change. There must be a clear and definite demand from the people for changing their customs. We must have the clear conviction that the people do want such a change, that they are ready for it. We must not be in a hurry to impose upon people laws which are repugnant to their social customs, unless such customs are immoral or opposed to public policy.

Is there, Sir, a demand from the people for a measure of this kind? Is there any large tendency or desire on the part of the people of this State, for any inter-caste or inter-religious marriages? I don't think so. Instances in this direction are so few and far between as not to merit the serious attention of a legislator.

One of the reasons advanced by the mover is that he is very much concerned about the fate of illegitimate children. We are all very much concerned about the fate of these unfortunate set of people.

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But I ask, Sir, whether illegitimacy is such a large problem, is it such a crying evil in Travancore? I do not think that there are very many illegitimate children existing to-day in Travancore. In the Census Report we do not find any reference to the existence of very many illegitimate children in Travancore. The reason is that every community and people here have a wide field of choice for marriage from amongst them and also the marriage rites and customs are so fecile and are easily put into practice. People here could marry and give in marriage without any very great difficulty. And now there is the birth-control propaganda. It is being carried every where -from house-tops, in bed-rooms, in drawing rooms-everywhere one hears it even from most persuasive lips.

MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know whether the Catholics oppose that movement?

MR. ANTONY GEORGE (*Nominated*): Yes.

DEPUTY PRESIDENT: That question does not arise in that form.

MR. ANTONY GEORGE (*Nominated*): I say that the spread of birth-control would tend to prevent legitimate birth and that of illegitimate birth would to a greater extent be limited, if not prevented altogether. So there is no necessity for a measure of this kind on the score of illegitimacy.

The Bill, Sir, while giving personal freedom with regard to marriage, would become a source of disruption to domestic ties and relationship. If we allow that sort of freedom it would become a source of danger to society. We know what is happening in western countries. Nearly all the thinking people in the west are deploring the results of such measures as this. We should be very careful in interfering with our marriage customs.

This Bill, Sir, is not a mere social legislation as it pretends to be. It has greater implications. It infringes very much on the side of religion—religion of a very large and influential section of the people—the Christians, especially, the Catholic Christians. With people of their way of thinking and believing, marriage is not a mere personal contract or a mere alliance for convenience between a man and a woman.

MR. MENATHERI N. KESAVA PANICKAR (*Nominated*): Are they not free to go away from the fold?

MR. ANTONY GEORGE (*Nominated*): They are even free to run away.

MR. S. J. NAIR (*Nedumangad*): May I know whether there are Catholics in Russia?

MR. ANTONY GEORGE (*Nominated*): I have not gone to Russia.

With Catholics, marriage is a religious institution of the highest importance and significance. Any measure which infringes on this side of the question would be looked upon by them with the highest discontent.

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[Mr. Antony George.]

I know, Sir, the Bill is only permissive. But if it is going to be passed into law, it would become a source of incentive to many. When people are in love, they do not stop to reason and consider. They are as it were on the wings of emotion then. They will do then many things which under normal conditions they simply won't. This Bill, Sir, would help people to marry in haste and repent at leisure. We must not put temptation in the way of people by means of legislation.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : Suppose this Bill is passed, will it be possible for a Catholic to remain within the church and marry according to his will?

MR. ANTONY GEORGE (*Nominated*) : No.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : Is it that the danger consists in that the people who want to marry according to the provisions of this Bill will have to go out of the Catholic church ?

MR. ANTONY GEORGE (*Nominated*) : Yes.

Sir, I want to place another fact for the consideration of the House and especially for the consideration of the mover. We know that this House is not as fully represented by Christians as it ought to be.

DEPUTY PRESIDENT : That point does not arise. Whether the House is fully represented by any particular section of the people is not a matter which you may mention in this House itself. The member is at liberty to argue on the basis of the constitution as it now is. The claims of particular communities may be advocated but not with regard to representation in the Assembly, because such discussion is not allowed on the floor of the House.

MR. ANTONY GEORGE (*Nominated*) : This Bill, if it is passed into law, will affect the Christians the most, and without their views being fully represented, it might be thought by people outside that it was done so in a packed House with sympathies in this matter alien to Christians.

MR. K. R. ELENKATH (*Kalkulam I*) : Does the member think that this House is alien to sympathise with Christians ?

DEPUTY PRESIDENT : That does not arise. So far as I have been able to understand, Mr. Antony George seems to have stated that the opinion of the bulk of the Christians in the country is against such a measure. Mr. Antony George, I must say is being worried unnecessarily. I suppose the two members who have been doing that repent now. All that Mr. Antony George said is, if I understood him correct, that the bulk of the Christians in the country are against this measure. Is that not so ?

MR. ANTONY GEORGE (*Nominated*) : Yes, Sir. The mover has been saying that he has a large volume of public opinion behind his back for bringing in this measure. He made references to certain resolutions passed at important social conferences, as he calls them. I would like to know what these social conferences are. I would like to know if any conferences of Christians, Muslims or Brahmins have passed any such resolution.

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MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Is the Member aware that the Namboodiries who are the Brahmin of Brahmins, have passed in their Yogakeshama Sabha resolutions, time out of number, advocating a legislation of this kind?

MR. ANTONY GEORGE (*Nominated*) : I don't want to speak anything in disparagement of that great community. I speak with due respect to them in answering my friend. The Namboodiries, though they are Brahmin of Brahmins, are not in level, in point of culture and progress, with the Brahmins. (Hisses). I maintain that they are a very conservative sort of people who have yet to make much progress. If the Brahmins have passed such a resolution, I could have understood it. Because though conservative, they have kept in the vanguard of progress and they are also the priests and repositories of Hindu learning and culture. The progress the Brahmin has made, the Namboodiri has not. The Namboodiries are only a progressing community.

DEPUTY PRESIDENT : Mr. Kunjukrishna Pillai's argument, if I understood him correctly, would show that even the Namboodiries who are not progressive considered particularly have in meeting after meeting advocated a measure of this kind.

MR. ANTONY GEORGE (*Nominated*) : Because they are not so progressive they have passed this resolution. They have not fully understood the effect of the resolution they have passed.

DEPUTY PRESIDENT : The Namboodiri community will not thank the member for saying that they do not know what they say.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : May I know whether the member knows what he says?

MR. ANTONY GEORGE (*Nominated*) : I am not sure whether you know what you ask?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : May I know whether the member is aware that when the Namboodiri Regulation was passed, the Namboodiries were opposed to this?

MR. ANTONY GEORGE (*Nominated*) : I am not aware of it. So the Christians, the Muslims, the Brahmins and many other communities have not come forward with their demand for such a piece of legislation.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : By the Brahmins, does the member mean Mr. Sambasiva Aiyar's community.

MR. ANTONY GEORGE (*Nominated*) : I refer to my friend Mr. Ulloor Parameswara Aiyar's community. (*Laughter*).

DEPUTY PRESIDENT : I think it is better that such personal references should, as far as possible, be avoided.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : I put the question because Mr. Sambasiva Aiyar supported the motion.

DEPUTY PRESIDENT : I said 'as far as possible' be avoided.

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MR. ANTONY FEORGE (*Nominated*): There is no demand from these communities for a measure of this kind. If this measure is going to be passed into law it will affect these communities the most. In view of this and other matters I don't think we would be justified to go on with this measure.

MR. K. MAHOMED (*Alwaye*): Sir, I support the broad principle contained in this Bill for it is in accordance with the broad principle of Islam. I do not say that the Bill is perfect. When human nature itself is imperfect, how can the action of man be perfect? There are objectionable clauses in the Bill, which I hope will be taken away by the Select Committee, when the Bill is referred to that Committee. The Select Committee should be given large powers so as to make necessary additions, subtractions or amendments in the Bill.

I cannot say that after the passing of such a piece of legislation as this, all sorts of communal bickerings in the country will disappear. To a certain extent they may be removed.

One objection raised was that when a Catholic woman marries a non-Catholic man she will be ex-communicated from her community. But I know there was such a marriage and there was no ex-communication. (*Hear, hear*).

MR. T. K. ALEXANDER (*Kunnatnad I*): Is the member sure of it?

MR. K. MAHOMED (*Alwaye*): I am quite sure of this fact.

DEPUTY PRESIDENT: When a member says anything definite, it is not open to another member to ask whether he is definite about it, because I think it is only when he is sure, a member says it.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Whom did the Catholic marry?

MR. K. MAHOMED (*Alwaye*): Sir, can I mention names here?

DEPUTY PRESIDENT; I have said personal references should as far as possible be avoided.

MR. K. MAHOMED (*Alwaye*): A Musalman has married a Catholic lady.

MR. ANTONY GEORGE (*Nominated*): Is it a real marriage?

MR. K. MAHOMED (*Alwaye*): He has married a Catholic lady and he remains a Musalman—a pucca Musalman. (*Laughter.*)

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*). Is not the Catholic lady a *Kitabi*?

MR. K. MAHOMED (*Alwaye*): Yes.

I do not want to enter into the details of the Bill. With these words I support the principle contained in the Bill.

MR. S. J. NAIR (*Nedumangad*): Sir, I rise to support the Bill. This Bill would help to promote communal amity in the State. This Bill would never be a hindrance to any community for its progress. Some people say that when the Bill is passed their religion would be at stake. Sir, I know instances in which some respectable gentlemen have married respectable Christian ladies belonging to the Catholic faith even in Travancore Sir, those gentlemen remain as they were. They are non-Catholics and non-Christians and the respectable ladies whom they married remain as pucca Catholic ladies.

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DEPUTY PRESIDENT : I think it will serve very little good in making references to these instances, for this is a question on which opinions have to be expressed with some care. It is not that a member has not the right to do it, but the feeling of members of a particular community may as far as possible be taken into consideration. To say any lady of one community is the wife of any man of another community may be good, but when you say a *respectable* Catholic lady, there may be difficulty, because other people may come forward and say that that lady and gentleman have ceased to be respectable. To avoid that I am saying this.

MR. S. J. NAIR (*Nedumangad*) : I mentioned all that not to wound the feelings of any one. What I meant was this. The couples were respectable and they remain respectable ; that is all.

There are certain clauses in this Bill that require omission as well as some other clauses that require amendment. Then only the purpose of this legislation would be served, Sir. Otherwise this would not mend the existing evils and this would not help for promotion of real conjugal happiness. Clauses 17 and 18 are harmful and should be omitted. Similarly, clauses 22, 23 and 25 should be omitted. With these observations I support the principle of the Bill.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*) : Sir, I did not want to intervene in this discussion and make a speech, but my friend Mr. Antony George has referred to me personally, and I thereafter thought it would be not proper on my part to keep quiet, but that I should come forward and express my opinion about the principle underlying this Bill.

To begin with, Sir, I need not inform this House that my friend Mr. Sambasiva Aiyar and myself belong to one and the same community (*Laugater.*). There is absolutely no doubt on that point.

There are one or two aspects of this problem which we have to take into careful consideration. In the first place, Mr. Kunjukrishna Pillai's Bill is, as he has definitely assured us, only a permissive one. In the second place, it has got the advantage of legitimatising the children born of inter-caste marriages. These are to my mind two advantagious features of the Bill. As regards the third advantage pointed out by the member that it will conduce in a very large extent to bring about communal peace and harmony, I have my own doubts. But even without taking that aspect of the matter into consideration, there are other reasons on account of which the Bill can be supported. So far as my own community is concerned, we have no fear that the moment this legislation is going to be passed, all the women of this community would marry men from other communities.

MR. PACODE A. NARAYANA PILLAI (*Vilavunkod*) : Am I to understand that, so far as that community is concerned, this piece of legislation is useless ?

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*) : You can draw your own inference from my observation.

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[Rao Sahib S. Parameswara Aiyar.]

There is what is called social ostracism in several communities. There are also several other forces which will keep the normal men and women within the normal rule. At any rate during the first few decades after the passing of this Regulation, there may not be many persons coming forward to avail themselves of the provisions of the Regulation under contemplation, but if any particular person, man or woman, wishes to take advantage of these provisions let him or her do so. We need not stand in their way.

MR. ANTONY GEORGE (*Nominated*): Would it not give room for temptation on the part of those people?

RAO SAHIB S PARAMESVARA AIYAR (*Nominated*): This is not the only temptation in the twentieth century. There are ever so many forces at work in the world of the present century. We cannot stop those forces. Such pieces of legislation, as the one that Mr. Kunjukrishna Pillai has introduced, will come and *must* come whether we desire them or not. Therefore, Sir, I feel that no useful purpose is served in standing here to oppose this legislation.

From the orthodox point of view, I may state that the *pratiloma* form of marriage, which in effect this Bill will legalise, is productive of serious religious demerit. But, that aspect will also be borne in mind by the parties concerned and such a union will take place only when the man or woman considers that it is of greater advantage, than conforming to the existing custom. In such cases, by all means, let us allow them freedom of action. I therefore do not oppose this Bill, but accord my support to it.

MR. T. S. JAYANTAN NAMBOOTIRI (*Travancore Jenmies, North*): ഈ സഭയുടെ ആലോചനയ്ക്കു വിഷയമായിരിക്കുന്ന ബില്ലിനോടു എനിക്കു പരിപൂർണ്ണമായ അനുഭാവമാണുള്ളതു്. നമ്പൂതിരിമാർ ഇങ്ങനെയുള്ള സാമുദായികകാര്യങ്ങളെപ്പറ്റി അഭിപ്രായം പറയുന്നതിനു താണിയുള്ള സമുദായക്കാരല്ലെന്നു ഒരു സ്നേഹിതൻ ഇവിടെ വച്ചു പ്രസ്താവിച്ചു. അതുകൊണ്ടു മാത്രമാണു് രണ്ടു വാക്കു പറയുന്നതു്. ഈ പ്രസ്താവന എതായും ആക്ഷേപകരവും ആലോചനാരഹിതവും ആണെന്നു പറയാതിരിക്കുവാൻ നിവർത്തിയില്ല. എന്റെ സമുദായത്തെക്കുറിച്ചുള്ള അഭിപ്രായത്തിന്റെ അജ്ഞതകൊണ്ടായിരിക്കണം ഇങ്ങനെ പ്രസ്താവിച്ചിട്ടുള്ളതു്. ഇൻഡ്യയിലുള്ള ഇതരബ്രാഹ്മണരെ അപേക്ഷിച്ചു മലയാളബ്രാഹ്മണസമുദായത്തിനു യാതൊരു സംസ്ക്കാരവും ഇല്ലെന്നും അഭിപ്രായം പറഞ്ഞു. നമ്പൂതിരി സമുദായത്തിന്റെ പ്രതിനിധി എന്ന നിലയിൽ ആ പ്രസ്താവനയോടുള്ള പ്രതിഷേധത്തെ ഇവിടെ രേഖപ്പെടുത്തുകയും ഈ മാതിരി അഭിപ്രായങ്ങൾ ഇനിമേലാൽ പുറപ്പെടുവിക്കാതിരിക്കണമെന്നു അപേക്ഷിക്കുകയും ചെയ്യുന്നു. ഇവിടെ അവതരിപ്പിച്ചിരിക്കുന്ന ബിൽ എന്റെ സമുദായത്തെ എതുത്തോളംബാധിക്കുമെന്നാ

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ണ്ഇനി ആലോചിക്കേണ്ടതു്. വിവാഹകാര്യത്തിൽ ഒരാളിനസ്വാതന്ത്ര്യം ഉണ്ടായിരിക്കണമെന്നുള്ളതു ഇന്നത്തെ ലോകതത്വത്തിനു യോജിച്ച ഒരു അഭിപ്രായമാണ്. ഒരാളിനു അയാൾ ഉൾപ്പെട്ട സമുദായം സ്വീകരിച്ചിരിക്കുന്ന മതവിശ്വാസത്തെക്കാൾ സ്വതന്ത്രവിവാഹക്കാര്യത്തിൽ പ്രത്യേകമായ താല്പര്യം ഉണ്ടാകുന്ന എങ്കിൽ ആ വിവാഹരീതി സ്വീകരിക്കുന്നതുകൊണ്ടു് യാതൊരു തരക്കേടും വരാനില്ല. അതുകൊണ്ടു് ഈ ബില്ലിനെ എതുക്കേണ്ട ആവശ്യമുണ്ടെന്നു ഞാൻ വിചാരിക്കുന്നില്ല.

MR. T. T. KESAVAN SASTRI (*Nominated*): ഈ സഭയുടെ പരിശോധനക്കായി അവതരിപ്പിച്ചിരിക്കുന്ന ബില്ലിന്റെ തത്വത്തോടുകൂടി ഞാൻ പരിപൂർണ്ണമായി യോജിച്ചുകൊള്ളുന്നു. ഓരോ വ്യക്തിയുടെയും സ്വാതന്ത്ര്യസംരക്ഷണത്തിനു ഹേതുഭൂതമായ ഒന്നാണു് ഈ ബിൽ എന്നുള്ളതു എല്ലാവക്കും അറിയാവുന്നതാണു്. സിവിൽ മാര്യേജ് ബില്ലിൽ വിവാഹപരമായ സർവസ്വാതന്ത്ര്യത്തെ സഹായിക്കുന്നതിനു അനുയോജ്യമായ നിയമങ്ങളാണ് നിർദ്ദേശിച്ചിട്ടുള്ളതു് ഭാസുരമായ ഫലം ആലോചിക്കുമ്പോൾ അതിന്റെ തത്വത്തോടുകൂടി അനുകൂലിക്കാതിരിക്കുവാൻ ന്യായം കാണുന്നില്ല. സംസ്കാരവും അഗാധമായ ജ്ഞാനവും വിദ്യാഭ്യാസവും ഉള്ള ആളുകൾ എല്ലാവരും ഈ അഭിപ്രായത്തെ സ്വീകരിക്കുമെന്നുള്ളതിനു യാതൊരു സംശയവുമില്ല. പ്രേമബദ്ധരായ സ്ത്രീപുരുഷന്മാർ യഥേഷ്ടം വൈവാഹിക ജീവിതത്തെ നയിക്കത്തക്ക നിയമങ്ങൾ നടക്കേണ്ടതു പരിഷ്കർത്താക്കളുടേയും പരിഷ്കൃത ഗവണ്മെന്റിന്റെയും സഹകരണത്തെ പരിപൂർണ്ണമായി പ്രോജ്വലിപ്പിക്കുന്ന ഒന്നാണെന്നാണ് എന്റെ അഭിപ്രായം. വിവാഹകാര്യത്തിൽ മതമൊ ജാതിയൊ നോക്കേണ്ട ആവശ്യമില്ല. സ്ത്രീപുരുഷന്മാരുടെ ഹൃദയങ്ങൾ പരസ്പരം സ്നേഹംകൊണ്ടു ഹഠാദാകർഷിക്കുന്നുവെങ്കിൽ അവർ വിവാഹകർമ്മത്തിലേർപ്പെട്ടു ജീവിതം സുഖകരമായി നയിക്കുന്നതിനു പര്യാപ്തമായ നിയമങ്ങൾ സാഹായ്യമായിഉണ്ടായിരിക്കേണ്ടതു അത്യാവശ്യമാണ്. ഏതാദൃശമായ അവസ്ഥ മുൻനിറുത്തി ഈ നിയമസമിതിയുടെ അഭിപ്രായത്തെ കേന്ദ്രീകരിച്ചും ഗവണ്മെൻറിന്റെ അനുഭാവത്തെ ക്ഷണിച്ചും അവതരിപ്പിച്ചിട്ടുള്ള ഈ ബിൽ ബഹുമാന്യം തന്നെയാണ്. ഇപ്പോൾ തന്നെ രാജ്യത്തിലുള്ള വിവിധജാതി മതസ്ഥരിൽ പല സ്ത്രീപുരുഷന്മാരും ഉയർച്ച താഴ്ച എന്നുള്ള വ്യത്യാസമില്ലാതെ അവരവരുടെ അഭിപ്രായത്തിനും അവരവരുടെ ഹൃദയത്തിനും യോജിച്ച നിലയിൽവിവാഹബദ്ധരായി തീരുന്നുണ്ടു്. അങ്ങിനെയുള്ള ബാന്ധവത്തെ സ്ഥിരമായും സാരമായും സഹായിക്കുന്നതിനതുകുന്ന ഒരു ബില്ലാണിതു്.

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[Mr. T. T. Kesavan Satri.]

ബ്രിട്ടിഷ് ഇൻഡ്യയിലും സാമന്തരാജ്യങ്ങളിലും അയൽരാജ്യമായ കൊച്ചിയിലും പാസ്സാക്കിയിട്ടുള്ള സിവിൽ മാര്യേജ് ബിൽ നമ്മുടെ നിയമസമിതിയിലും സ്വീകരിച്ചു ബഹുമാനപ്പെട്ട ഗവണ്മെൻറ് അതിനെ അനുകൂലിച്ചു നിയമമാക്കി നടപ്പിൽ കൊണ്ടുവരേണ്ടതു് അത്യാവശ്യമാണെന്നുള്ള വിവരം പ്രസ്താവിച്ചുകൊണ്ടും ഒരു ഉല്പതിഷ്ണുവായ അവതാരകനെ അനുമോദിച്ചുകൊണ്ടും ഈ ബില്ലിനെ ഞാൻ ബലമായി അനുകൂലിച്ചുകൊള്ളുന്നു.

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): Sir, I do not for a moment believe that the millennium is going to dawn if this Bill is passed by this House nor do I feel that the communal differences would be perpetuated if this Bill is not passed. There may be communal disharmony but there may be various factors contributing to communal harmony and it is not a piece of legislation like this that will in any manner contribute towards communal harmony.

So far as the Muslim community is concerned, I can assure this House that there has been absolutely no demand on its part for such a measure. There have not been cases of domestic unhappiness among Muslims. On the other hand, what I fear is that there will be cases of domestic dissension and disharmony if such a piece of legislation is introduced in the State. Of course, though it is only a permissive piece of legislation the tendency will be for young people to contract marriages outside the Muslim community.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): By young people, does the member mean young men or young women?

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): At present it is open to the Muslim young men to marry from communities who base their religion upon revealed scriptures, that is, people of the Book.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Will the member put it in a more intelligible manner?

DEPUTY PRESIDENT: I think Mr. Thanu Pillai, you will have to withdraw it, because a member is expected to put his ideas in the best way he can. I am sure you did not mean anything wrong.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Sir, I wanted it to be put in a way in which it will be intelligible to a man not conversant with religious technicalities.

DEPUTY PRESIDENT: I still adhere to the view that one member is not at liberty to ask another member to put his ideas in a more intelligible manner.

MR. A. THANU PILLAI (*Trivadrum-Rural*): May I know what I should do?

DEPUTY PRESIDENT: You may put a question.

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): I believe Mr. Thanu Pillai as a lawyer has studied Mahomedan Law. The expressions 'people

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who believe in revealed scriptures' and 'people of the Book' are very commonly used in books of Mahomedan Law. It means people who base their religious faith on revealed scriptures. People who worship fire are, for instance, excluded. I think that is a most intelligible form.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Does the member mean to say that a Mahomedan youth may marry from the Christian fold and not from the Parsi fold?

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): Yes. So this Bill is superfluous In Mahomedan Law, which has been in existence for so many years and which has not undergone any change at all hitherto, adequate provisions have been made for meeting the requirements of the people and I do not think that there is any necessity to deviate from the principles already laid down.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Would it be against the teachings of the Prophet if a Mahomedan were to marry under any ceremony other than those prescribed by the Prophet?

MR. N. ABDUR RAHIMAN SAHIB ((*Nominated*): Yes. Another objection that I raise is this. Supposing a Muslim woman is given in marriage to a non-Muslim man of a class other than *Kitabi* , I am sure she will not have that unrestricted freedom of worship and faith which she will have if she were given in marriage to a Muslim. That is one main reason why I object to this Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does the Mahomedan Law allow a Muslim woman to have a non-Muslim husband?

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): No, Sir. I was saying with reference to this piece of legislation that is now before the House that a Muslim woman, if she were married to a non-Muslim, will not be given freedom of worship and faith by her husband. Simply because laws are passed in other States in this matter, it does not mean that we also should pass such laws in our State, without a demand from the general public at large.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Does the member say that the Mahomedan religion is opposed to this measure?

MR N. ABDUR RAHIMAN SAHIB (*Nominated*): Yes, that is what I am saying. Simply because there is no objection published in the papers and protest meetings have not been held, it should not be inferred that the Muslims as a body are in favour of this piece of legislation. So far as I have been able to ascertain their views, I can say that the vast majority of them are opposed to such a measure. With these words I oppose the principle of the Bill.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, the mover of this Bill has avowedly drafted it on the lines of the British Indian Act. That is what he states in the Statement of Objects and Reasons. But I find that in the actual wording of the several clauses, he has gone too far. In other words, the scope of the Bill has been very much widened. To illustrate my point, I shall just refer to clause 3 of the Bill. It says:

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[Mr. S. Chattanatha Karayalar.]

"Marriage may be celebrated under this Regulation between persons neither of whom professes the Hindu, Christian, Buddhist, Jain, Jewish or Mahomedan religion or between persons each of whom professes either the Hindu, Christian, Buddhist, Jain, Jewish or the Mahomedan religion".

Under Section 2 of the British Indian Act, marriages may be celebrated between persons neither of whom professes the Hindu, Christian, Mahomedan, Jewish, Parsi, Buddhist, Jaina or the Sikh religion. And under the second part, marriages may be celebrated between persons each of whom professes one or other of the following religions, namely, the Hindu, Buddhist, Sikh or Jaina religion. In British India, marriages can be celebrated only between persons belonging to these faiths. But the mover of the Bill has introduced changes in the latter portion of the clause, providing for marriages between persons belonging to Mahomedan, Christian, and Jewish religions also. That goes too far and introduces a new principle. The original Indian Act was intended only to provide a form of marriage for persons who had no prescribed form of marriage. That was all that was provided for in the Act of 1872. Fifty years later, the British Indian legislature passed an amendment to the effect that marriages may be performed between Hindus, Buddhists, Sikhs and Jains only, but not between Hindus and Christians, or between Mahomedans and Christians or between Hindus and Mahomedans. The British Indian Legislature has proceeded only so far. Obviously, the present Bill is intended to provide for marriages between these people also and to affect the laws applicable to Hindus, Mahomedans etc. This is a very far-reaching change in law.

Sir, the British Indian Legislature has deliberately refrained from interfering with the laws of Hindus and Mahomedans. This seems to have been done for very good reasons. For, under the British Indian Law, in the case of Hindus and Mahomedans, questions of personal law are determined not by domicile but by their personal laws which are based on their religions.

In other words, the law of the Hindus and Mahomedans in British India is the law of their religions. Hence the British Indian Acts do not seek to interfere with the laws of the Hindus and Mahomedans. For instance, the law of domicile and of intestate succession contained in the Indian Succession Act is delebirately made not applicable to these people.

Sir, in social legislation, it is highly desirable and expedient that our law should move along the lines of the British Indian Act.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Can a Hindu marry a Christian or a Mahomedan under the British Indian Act?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): No, Sir.

I perfectly agree with the view of the mover that our law should keep pace with the advancing needs and circumstances of society. My point is that this Bill goes much further than the situation needs and our law may come into conflict with the British Indian law.

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I will just point out how an enactment of this nature in Travancore will create complications. The law of intestate succession outlined in this Bill is different from the law laid down in the British Indian enactment and may therefore come into direct conflict with the British Indian law. So far as the Hindus, Sikhs, Buddhists and Jains are concerned, the law of intestate succession as laid down in the British Indian Act is not applicable to them. But, under the Bill now before the House, there is one system of intestate succession which is applicable to all those who contract marriages according to this Bill. Suppose a Travancorean domiciled in British India contracts a marriage under this Bill, and dies, leaving the bulk of his properties in British India. The British Indian law will operate one way in respect of his properties and the Travancore law will operate another way in respect of his properties. The devolution in British India will be entirely different from the devolution in Travancore. This is one instance to show that complications will be created by a different law in this respect. I cannot, therefore, entirely agree to the principle of the Bill now introduced.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Cannot the personal law of the people be said to be taken with them into British India ?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*) : The Hindus and Mahomedans are governed by their personal laws in British India. That is why they are purposely excluded from Parts II and V of the Indian Succession Act. According to the law of British India, in the case of Hindus and Mahomedans, questions of personal law are determined not by the test of domicile but by reference to the religions community to which the person belongs. In other words, the laws of Hindus and of Mahomedans is the law of their religion. The result is that under the British Indian system of law, a Hindu carries along with him his personal law wherever he goes and he cannot, however fixed his determination may be, get rid of that law. Wherever the law of British India admits the operation of a personal law, his rights and obligations are determined by the Hindu law. This is the written law of British India as decided by the Privy Council.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : If a State makes a change in statute law, and if a man belonging to that State goes to another State, will he not carry the altered law to the other State ?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*) : That is why I say that the personal law should not be tampered with in Travancore, unless it is tampared with in British India as well ; and changes, if any, should be identical.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The Hindus go to America and other places.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*) : If a Hindu goes to America he carries his personal law with him, unless he acquires a new domicile.

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Will he carry with him the amended statute law?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I ask whether another State is bound to recognise the statute law of Travancore?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Even though another State is not bound to recognise the statute law of Travancore, he carries with him his personal law. There is express provision in all enactments in British India by which the personal law of Hindus and Mahomedans is saved. The British Indian Act has purposely provided that.

MR. A. THANU PILLAI (*Trivandrum-Rural*): If different systems of law are followed by different sections of Hindus, is it possible to lay down a general law like this?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): My point is only that the system of succession should be uniform with that in British India.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I ask the member whether he is aware that the personal law of the Nayars obtains in British Malabar also?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): That does not affect my argument that the system of intestate succession laid down in this Bill will come into conflict with the system in British India. I am strongly of opinion that it is inexpedient and undesirable that our law in this matter should be uniform with the British Indian law and the raasons behind the policy of the Indian legislature should guide us. I would submit that unless the scope of the Bill is restricted to that of the enactment in British India, I cannot accord my support to the Bill.

DEPUTY PRESIDENT: I wish to state that we should be able to finish the whole work in the Agenda. I am sure the House will co-operate with me in that. There are two other items of work remaining, namely, the Travancore Child Marriage Restraint Bill by Srimathi Narayani Amma, and the Travancore Child Marriage Restraint Bill by Mr. Janardana Kamath. I do not mean that discussion before the House should be restricted. But I am making this announcement for the advantage of the House. Mr. Varughese will now speak.

MR. N. E. VARUGHESE (*Tiruvalla I*): Sir, before I say a few words on this Bill, I wish to raise a point of order. According to paras 79 and 82 of the Assembly Manual (pages 29 and 30), I raise the question whether we are in order in discussing this Bill. It affects the usages of His Highness' subjects.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, without prolonging the point further, I may say that I have got the sanction of the Dewan for introducing this Bill. Also leave has already been granted by this House.

MR. N. E. VARUGHESE (*Tiruvalla I*): If there had been sanction, such sanction ought to have been appended to this Bill.

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DEPUTY PRESIDENT: I take a different view, Mr. Varughese. Have you anything to say on the merits of the Bill?

MR. N. E. VARUGHESE (*Tiruvalla I*): I oppose the Bill on general principles.

Sir, I oppose the Bill because it affects all the subjects of His Highness the Maha Raja, whether Christians, Mahomedans or Hindus Before launching a measure of the kind now proposed, an irresistible demand has to be made by the members of different communities to have a Bill of the kind now before the House. From the observations of my friend the mover, I noticed that there was some demand from different quarters urging the necessity for such a measure. As a Christian member of this House, a community which is considered as important and numerically large—

DEPUTY PRESIDENT: Probably you mean by that, a member of the House, who is a Christian?

MR. N. E. VARUGHESE (*Tiruvalla I*): Or, as I put it, a Christian member of this House. I do not see any difference between these two expressions. I take it that both these expressions give the same meaning.

I am sure that all Christian members of Travancore will oppose this measure. There was not a voice from any Christian from any part of Travancore and my friend the mover has not referred in his speech that any of the Christian members requested him for proposing a legislation of the kind now before the House.

Sir, marriage is a sacrament according to the Christian law. No Christian will desire to upset that law. It affects the vital principles of Christianity. We cannot go against it and we cannot live but for those laws. When the position of the Christian community is so well defined, unless it be that the majority of the Christians or at least a good portion of the community comes forward and demands such a legislation, such a measure is premature. The mover said that persons from certain communities wanted it. If so, let them have it. Pray, leave us Christians alone. We don't want such a legislation. We are not in need of it. It will work against our interests and upset our community. Such a Bill will vitally affect our usages. Probably the mover wants to have a Bill for every member of the community.

DEPUTY PRESIDENT: You mean, for every community in the State?

MR. N. E. VARUGHESE (*Tiruvalla I*): I think he is trying to legislate a law for every individual of the State.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I know whether Mr. Varughese's individual right has been infringed by this Bill?

DEPUTY PRESIDENT: I disallow that question.

MR. N. E. VARUGHESE (*Tiruvalla I*): If the majority view is that the Bill should be referred to a Select Committee, I am of opinion that Christians should be represented in a large measure on the committee,

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): So far as Government are concerned, they would remain neutral. Some opposition to the measure is noticed. Government will watch the situation and decide.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Is the member in a position to say the amount of such opposition to this Bill?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The Government are aware of opposition from outside the House as well.

MR. A. THANU PILLAI (*Trivandrum—Rural*): From what quarter?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot say that now.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Sir, in considering the principles underlying this Bill, the learned mover of the measure has attempted to support it on certain grounds. They may not probably hold good when closely examined. He pointed out that at various conferences like those of the Malayala Brahmanas, Kshatriyas and others, a demand was made for a measure of this kind. It may be quite right that they did so. But an observation in Mr. Varughese's speech made me think about it and I am of opinion that such demands cannot be taken at their face value. For, persons who have already contracted marriages are not likely to take advantage of this measure to be passed hereafter. Their position is fixed and if they struggle to break away for the fun of enlisting under the banner of this Bill, their overtures should not meet with any encouragement. They cannot have anything like a legitimate voice in the matter of the marriage of others. Probably their marital life might have been proving irksome to them. It might not have been possible to effect marriages from any other community by going beyond the fences of one's own community. In other words failure in attempts to taste the forbidden fruit might have embittered some who demanded the measure.

As to the infringment of individual rights on which Mr. Varughese was speaking, I am afraid, I cannot imagine the case of any one whose rights or inclinations would be affected by the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I know whether their personal rights have been enlarged?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Yes, to some extent.

MR. N. E. VARUGHESE (*Tiruvalla*): Will not such a marriage affect the rights of my son?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is not your indvidual right.

So this ground on which it is supported seems to be rather weak. But the question remains, is there not much misbehaviour in the world which goes undetected and unprovided for in the field of sexual urge? Notwithstanding Mr. Varughese's eloquence upon the steadfast behaviour of his own people, I may bring to his notice that there areChristian youths wishing to marry in other communities. In one case

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I know personally, I was consulted as a lawyer to devise means for the marriage of a Christian youth who has passed the Intermediate Examination, with a Nambcodiri girl. I krow Christian youths who have eloped with Brahmin girls. To say that nobody in the Christian fold will look beyond their fold in matrimony is not quite correct. There are European gentlemen who have married non-Europeans. There is the conspicuous instance in the person of Dr. Arundale who has married a Brahmin girl. As for marriages between European girls and natives of India, instances are by no means rare. According to a learned writer, the validity of such marriages is beyond question in the light of Hindu Law. Let us not widen the field for illegitimacy in the world. This unfortunate problem of illegitimacy is solved in America and other civilized States by legitimizing the issues of unapproved unions by flexible and suitable laws. So much so a woman appearing before a Magistrate in some American States and telling him that so and so is the father of her child, very easily gets a legitimacy order and the burden othewise thrown on the world at large is removed. This is the main point we have to consider in the matter. Morality requires that the mischief-maker, be it a man or woman, must be held to the consequences of the mischief. Nobody has any business to bring more mouths into the world to be fed at the expense of other people. If you concede the force of that proposition, there is good ground that legal sanction should be found for the marriage of persons who want to marry disregarding the barriers of caste, creed or religion. Probably much success may not be attained in this direction. There are weaknesses of human nature, and they may continue side by side with the measure. That however is no reason, for not providing for the decent and happy conjugal life of people who are now prevented from marrying each other on account of the tyranny of custom, caste or creed.

MR. P. C. KURYAN (*Kottayam I*): To me, it seems, it is the best piece of legislation to put an end to the communal troubles. This Bill, if passed, while solving all our difficulties would be the cause for an enlightened Travancore to be evolved as a result of this Bill. Since I am not come prepared to speak on the Bill, I do not wish to take more of the time of the House. There are progressive elements in the Christian community who are in support of this Bill.

MR. J. M. JOSEPH (*Nominated*) I would say at once that in what I am going to say I represent myself. The views I express here are my own personal views and not those of the large Christian community of South Travancore, to which I belong, and which I do not want to commit to what I say here. I must say that I appreciate very much the spirit which has induced the mover of this Bill to introduce such a piece of legislation at this time of the day, and endorse the principle underlying the Bill. My feeling is that this progressive measure has not come a day too soon. The country is advancing and changes are coming thick and fast in India which is now travelling to bring into existence a new order of things. We must keep pace with the advancing times. I support the principle of this Bill, Sir, for the simple

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[Mr. J. M. Joseph.]

reason that it is not only a progressive measure but also a permissive measure intended to give protection to those free-lances who want to have their own ways in matters of marriage. We have got our own church rules and if any Christian violates them by marrying out of the church, he will be put out of the church or excommunicated. After he is punished, why should we, I ask, pursue him futher and penalise him and his children. Law is no respector of persons. It is the same for all, whether Christian, Hindu, or Mussalman and must protect all. Therefore all legal impediments to such marriages as are legalised in this Bill, must be removed. Why should the children be punished by the law for the sins of their parents? It is not just and equitable Further if this Bill is passed into law, it will declare to the world that we in Travancore are not behind-hand in our endeavours to keep abraest of the times. I want to say to this House that I entirely disagree with certain provisions in the Bill. But I hope that these defects—defects to my eyes-would be set right in the Select Committee and in that hope I support the principle of the Bill.

MR. G. NILAKANTAN (*Nominated*) : I support the principles of the Bill.

MR. T. C. JOSEPH (*Minachil II*) : I oppose the principle underlying the Bill.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : I am delighted to find that the Bill is so warmly supported by such a large number of memberes in the House. I think whatever defects there may be, might be cured in the Select Committee. I do not wish to add anything more.

DEPUTY PRESIDENT : The question before the House is that the principle of the Bill be affirmed.

The principle of the Bill was affirmed.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I demand a poll.

A poll was taken and the House divided as follows :

AYES—37.

1	Mr	V. T. Chacko	16	"	Menatheri N. Kesava Panicker
2	"	A. S. Damodaran Asan	17	"	E. K. Kunjuraman
3	"	A. Easwara Pillai (*Kalkulam*)	18	"	K. Madhavan
4	"	K. R. Elankath	19	Mr.	M K. Madhavan Pillai
5	Miss	Hepzibah Gnanasikamony	20	"	K. Mahomed
6	Mr.	S. J. Nair	21	"	P. C. Kuriyan
7	"	T. S. Jayantan Nambóotiri	22	"	K. A. Narayana Pillai
8	"	N. John Joseph	23	"	Pacode A. Narayana Pillai
9	"	J. M. Joseph	24	"	P. K. Narayana Pillai
10	"	K. C. Karunakaran	25	"	G. Nilakantan
11	"	T. T. Kesavan Sastri	26	Sry.	T. Narayani Amma
12	"	Pottayil S. Krishna Panicker	27	Mr.	S. Nilakanta Pillai
13	"	N. K. Krishna Pillai	28	"	K. Padmanabhan
14	"	T. Krishna Pillai	29	"	Kainikara M. Padmanabha Pillai
15	"	K. Kunjukrishna Pillai	30	"	R. Raman Pillai

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AYES—37 - (*contd.*)

31	Rao Sahib S. Parameswara Aiyar	34	"	S. Thiraviam Nadar
32	Mr. R. Sambasiva Aiyar	35	"	R. Sivaraman Nair
33	" K. Sankaran	36	"	A. Thanu Pillai
		37	"	T. P. Velayudhan Pillai

NOES—7.

1	Mr. N. Abdur Rahiman Sahib	5	Mr.	S. Chattanatha Karayalar
2	" T. K. Alexander	6	"	T. C. Joseph
3	" M. Mahomed Haneef	7	"	N. E. Varughese
4	" Antony George			

NEUTRALS—12.

1	Mr. K. C. Abraham	8	Mr.	R. Nilakanta Pillai
2	" R. Achuthan Pillai	9	"	Edavanatt S. Padmanabha Menon
3	" K. George	10	"	Kayalam Parameswaran Pillai
4	" K. P. Krishnan Menon	11	"	G. B. E. Truscott
5	Rao Sahib Dr. N. Kunjan Pillai	12	"	T. C. Thommen
6	Mr. C. Kumara Das			
7	" P. C. Narayana Bhattatiripad			

The motion was declared carried.

The Secretary then read the title of the Bill.

MR. K. KUNJUKRISHNA PILLAI (*Quilon 1*): I move that the Bill be referred to a Select Committee consisting of—

Sadasya Tilakan T. K. Velu Pillai
Mr. Kayalam Parameswaran Pillai
„ R. Sambasiva Aiyar
Rao Sahib S. Parameswara Aiyar
Mr. A. Thanu Pillai
„ K. Mahomed
„ K. George
„ S. J. Nair
„ T. K. Alexander
„ J. M. Joseph
„ A. S. Damodaran Asan
„ R. Sivaraman Nair
„ Pottayil S. Krishna Panickar
„ K. Sankaran
„ S. Thiraviam Nadar
„ P. Chidambram Pillai
„ G. Nilakantan
„ A. Easwara Pillai (*Kottarakara*)
Sry. T. Narayani Amma
Mr. P. C. Kuriyan
„ S. Chattanatha Karayalar
„ K. Kunjukrishna Pillai (the mover).

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MR. K. MAHOMED (*Alwaye*) : I propose Mr. Abdur Rahiman Sahib also.

MR. N. JOHN JOSEPH (*Nominated*) : I suggest Mr. Nambootiripad also.

MR. T. K. ALEXANDER (*Kunnatnad I*) : I propose Mr. Antony George also.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : I accept the names of Mr. Antony George, Mr. N. Abdur Rahiman Sahib and Mr. Jayantan Nambutiripad also in addition to the names already read.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : I propose the name of Mr. A. Easwara Pillai (Kalkulam) also.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : I second it.

DEPUTY PRESIDENT : Now there must be some finality. I would ask Mr. Kunjukrishna Pillai to read the names once more so that we may be clear.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) :

Mr. Antony George
" T. S. Jayantan Nambootiripad
" N. Abdur Rahiman Sahib
" T. K. Velu Pillai
" Kayalam Parameswaran Pillai
" R Sambasiva Aiyar
" S. Parameswara Aiyar
" A. Thanu Pillai
" K. Mahomed
" K. George
" S. J. Nair
" T. K. Alexander
" J. M. Joseph
" A. S. Damodaran Asan
" R. Sivaraman Nair
" Pottayil S. Krishna Panickar
" K. Sankaran
" S. Thiraviam Nadar
" P. Chidambaram Pillai
" G. Nilakantan
" A. Easwara Pillai (*Kottarakara*)
Sry. T. Narayani Amma
Mr. P. C. Kurian
" S. Chattanatha Karayalar
" K. Kunjukrishna Pillai

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : I second it.

The question that the Bill be referred to the above Select Committee was put and carried.

DEPUTY PRESIDENT : The Committee will report within four months.

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